IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION.

CHAMBER SUMMONS NO. 878 OF 2005

IN

SUMMARY SUIT NO. 805 OF 2003

Vimla Dwarkadas Sanghvi ..... Plaintiffs.

versus

M/s. Amrutlal Dhirajlal & Co..... Defendants.

And
Minaxi Kishor Mehta ... Applicant.
And
Balkrishan D. Sanghvi & ors. ... Prop.Defendants

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Mr. J.B.Chinai Sr. counsel with Ms. Sonal i.b Zohair & Co. for the applicants.
Mr. N.G.Thakkar Sr. counsel with Sachin Chandarma i/b. M.K. Ambalal & Co. for proposed defendant no.1.
Manish Doshi i/b. Vimadalal & Co. for proposed defendant no.4.
Mr. Sanjay Jain i/b. Dhruve Liladhar & Co. for Defendant no.3.
Ms. Jyotsna Mukharjee for defendant no.2.

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CORAM ; A.M. KHANWILKAR, J.

DATED; 31ST AUGUST, 2005

P.C.;

1. Heard counsel for the parties. In my opinion, the order which I propose to pass would meet the ends of justice.

2. Parties appearing through the counsel submit that they have no objection for such order being passed. Accordingly Chamber Summons is disposed of on the following terms.

a) On the applicant undertaking to file an affidavit within one weeks from today to the effect that is, (i) substitution of the applicant herein as plaintiff in the above suit, shall not be construed to be an admission on the part of the proposed defendants that the applicant is the sole legatee of the deceased plaintiff herein nor will the applicant claim it to be so by virtue of the substitution, (ii) the amount, if any, recovered by the applicant herein as a result of this suit shall be deposited in the office of the Prothonotary and Senior Master and the said amount will remain in court for the benefit of the estate of the deceased plaintiff and subject to the result of the suit and probate petition hereinafter mentioned, and (iii) the suit herein will not be settled or compromised without written consent of all the heirs of the deceased plaintiff herein, (iv) that all the

proceedings in the suit shall be served on the proposed defendants.

b) This is without prejudice to all their rights and contentions of the parties in suit No.457 of 2005, and in the petition for Probate proposed to be filed by the applicant.

c) The contentions and all the claims and rival claims of the applicant and the proposed defendants herein shall remain open and will be decided on their own merits in the said suit No.457 of 2005 and/or petition of Probate proposed to be filed by the applicant herein and/or any other appropriate litigation.

d) This order is only for the purpose of enabling the applicant to prosecute the above suit against the original defendants i.e. M/s. Amrutlal Dhirajlal and Kishanbhai Mangaldas Parekh for recovery of the amounts as claimed in suits.

e) All reasonsable costs of and incidental to prosecuting the above suit will be initially paid by the applicant not exceeding the amount prescribed by Rule 606 of Bombay H.C. (O.S.) Rules but will ultimately be on the account of the estate of the deceased plaintiff.

f) It is made clear that Mr. S.B. Srivastava who has already entered appearance on behalf of the deceased plaintiff shall continue to appear for the plaintiff.

No order as to costs.

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